

OFFICE OF THE
BOARD OF APPEALS
TOWN OF DUNSTABLE
TOWN HALL, 511 MAIN STREET
DUNSTABLE, MA 01827-1313
(978) 649-4514 FAX (978) 649-4371
zoning-appealsboard@dunstable-ma.gov

NOTICE OF DECISION - VARIANCE

Date: October 22, 2012

Petition: 12-03

Notice is hereby given that a variance has been granted to Domenick J. Yezzi, Jr. to build a carport within 20 feet of the side lot line by the Dunstable Zoning Board of Appeals, affecting the rights of the owner with respect to the use of premises on 145 Off Pond Street, Dunstable, MA 01827 shown on Assessor's Map 13, Lot 52-0, the record title standing in the name of Domenick J. Yezzi, Jr. whose address is 3 Creekwood Cove, No. Little Rock, AR 72116 by a deed duly recorded in the North Middlesex Registry of Deeds in Book 2176, Page 394.

The decision of said board is on file with the papers on this matter in the office of the Town clerk. Certified this day of October 22, 2012.

Ted Gaudette
Acting Chairperson, Zoning Board of Appeals

John Martin
Clerk, Zoning Board of Appeals

An appeal from the decision of the Zoning Board of Appeals may be made by any person aggrieved pursuant to MGL Chapter 40A, section 17, as amended, within twenty (20) days after the date of filing of a notice of decision in the office of the Town Clerk.

I certify no appeal has been received within 20 days of the filing of this notice in my office, or that if an appeal has been filed, that it has been dismissed or denied.

Town Clerk

Date: _____

Having received the certification from the Town Clerk, it shall be the responsibility of the **applicant** to have recorded the decision at the Registry of Deeds for the North Middlesex District and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant.



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DATE FILED: October 22, 2012

PETITION: 12-03

**RECORD OF PROCEEDINGS
ON APPLICATION FOR A VARIANCE**

(Copies of the Record of Proceedings with all attachments must be filed within 14 days of a decision by the Zoning Board of Appeals in the Office of the Town Clerk.)

I, John Martin, Clerk of the Zoning Board of Appeals, hereby certify that the following is a detailed record of all its proceedings relative to the application of Domenick J. Yezzi, Jr. of 4 Creekwood Cove, North Little Rock, AR 72116

The applicant was seeking relief in the form of a variance from the provision of the Dunstable Zoning By-law sections 4.3, 4.4 and 11.1.

The property is located on 145 Off Pond Street, Dunstable, MA. The property is known as lot 52-0, reference Assessors Map No. 13, Registry of Deeds Book No. 2176, Page No. 394, and is in the R1 district. The request is made pursuant to sections 4.3, 4.4, and 11.1 of the Dunstable Zoning By-laws.

1. On September 4, 2012 an application of which a true copy marked "A" is made a part of this record, was filed with the Town Clerk and presented to the Zoning Board of Appeals on September 4, 2012.
2. Thereupon, an advertisement, a true copy of which marked "B" is made a part of this record, was published in the Lowell Sun, a newspaper published in Lowell, MA on Thursday, September 27, 2012 and on Thursday, October 3, 2012.
3. Notices of the hearing, a copy of which marked "C" is made a part of this record, were mailed postpaid to the petitioner and parties in interest as specified in Section 11, Chapter 40A as amended.
4. On Thursday, October 11, 2012, at 7:00 p.m. a hearing was held at the Dunstable Town Hall at which opportunity was given to all those interested to be heard in favor or in opposition to said application.
5. The public hearing was closed on Thursday, October 11, 2012.

Members Present: Ted Gaudette, Acting Chairperson
John Martin, Clerk
Judy Thompson, Associate Member
Lisa O'Connell, Acting Secretary and Member

Members Absent: Leo Tometich, Chairperson
Josh West, Member
Al Horton, Associate Member
Gerald Mead, Associate Member

6. The Zoning Board of Appeals found the following findings of fact regarding the land in question and the proposed use:
 - a. The petitioner will be constructing a 20 feet by 20 feet open air wooden carport.
 - b. The nearest corner of the new construction on the northeast side of the structure would be 17 feet from the side lot line.
 - c. Section 11.1 of the Zoning Bylaws requires a minimum side yard of 20 feet for accessory buildings.
 - d. A variance is a hardship on the land.
7. The Zoning Board of Appeals reached the following conclusions of law:
 - a. The location of the carport is restricted by a deep slope of the land in front of the structure and a large tree and the septic system behind it.
 - b. Section 10 of Chapter 40A of the MGL states...*"that owing to circumstances relating to the soil conditions, shape, or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law."*
 - c. The board found it could grant the variance due to the hardship of the shape and topography of the land.
8. The Board voted at its meeting on October 11, 2012, as detailed below, to:

 X GRANT the application subject to the following conditions, safeguards and limitations on time or use if any:
 - a. The applicant must file this decision with the registry of deeds and provide proof thereof to the Town Clerk of Dunstable.
 - b. All required permits, licenses, and other necessary requirements by any and all Federal, State or Local governments, or agencies thereof, be obtained and fully complied with.
 - c. Appeal of this decision, if any shall be pursuant to MGL, Chapter 40 (A), Section 17, as amended and shall be filed within twenty (20) days after filing of this notice of decision with the Town Clerk of the Town of Dunstable.

John Martin motioned to vote whether there is a hardship on the land and the new carport would not be more detrimental to the public good. Judy Thompson seconded the motion and the roll was called.

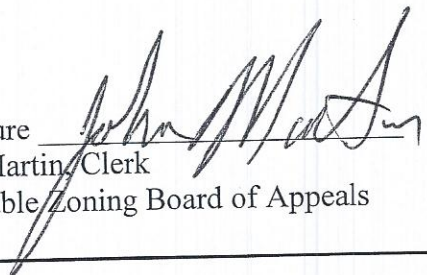
Judy Thompson – not more detrimental
John Martin – not more detrimental
Ted Gaudette - not more detrimental
Lisa O'Connell - not more detrimental

Leo Tometich – Absent
Josh West – Absent
Al Horton – Absent
Gerald Mead - Absent

John Martin motioned to vote to grant or deny the variance. Judy Thompson seconded the motion and the roll was called.

Judy Thompson – to grant
John Martin – to grant
Ted Gaudette – to grant
Lisa O'Connell – to grant

Leo Tometich – Absent
Josh West – Absent
Al Horton – Absent
Gerald Mead - Absent

Signature 
John Martin, Clerk
Dunstable Zoning Board of Appeals

Date: 10-22-2012

CERTIFICATION BY THE TOWN CLERK FOR FILING THE DECISION IN THE REGISTRY OF DEEDS

This is to certify that twenty (20) days have elapsed since filing of the above decision with this office and no appeal has been filed, or an appeal has been filed and denied in the case.

Signature and Seal of the Town Clerk

Having received the certification from the Town Clerk, it shall be the responsibility of the applicant to have recorded the decision at the Registry of Deeds for the North Middlesex District and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant.